IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1088 OF 2007

Kadam P.V.C.Pipes Pvt.Ltd & Ors. ...Petitioners
Versus
The Sangli Bank Ltd & Ors. ...Respondents

Shri V.S.Talkute for the Petitioners.

CORAM : ABHAY S.OKA, J.
DATED : FEBRUARY 22, 2007.

P.C.:

1. Heard Advocate for the Petitioners. By this Writ Petition under Article 227 of the Constitution of India, the Petitioners have taken exception to Judgment and Order dated 16th November, 2006 passed by the trial Court by which Application at Exhibit 75 made by the Petitioners has been rejected. The Petitioners are the Defendants in a money suit filed by the first Respondent-Bank. An Application was made by the Petitioners seeking a direction against the first Respondent to produce eight documents which are mentioned in the Application. The said Application has been rejected by the impugned order.

2. The learned Advocate appearing for the Petitioners submitted that the said documents which were subject matter of the Application are admittedly in the

custody of the first Respondent and the said documents are certainly relevant for effectively deciding the controversy involved in the suit. He submitted that there was no reason why the court should not have directed the first Respondent to produce the documents.

3. I have considered the submissions. The first Respondent is the Plaintiff. The first Respondent has not chosen to produce the documents which are referred to in the Application made by the Petitioners. Though it is very difficult to find fault with the impugned order, it is obvious that the Petitioners can always raise a contention before the trial Court that an adverse inference should be drawn against the first Respondent for non production of the said documents.

4. Writ Petition is rejected. Notwithstanding the rejection of the Writ Petition, it will be open for the Petitioners to raise a contention before the trial Court at appropriate stage that an adverse inference will have to be drawn against the first Respondent on account of non production of the concerned documents. If such contention is raised, the trial Court will take the same into consideration.

JUDGE